
SENATE BILL No. 526

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-21-1; IC 23-14-57-1; IC 34-30-2-55.5.

Synopsis: Historic preservation. Enables the department of natural resources (DNR) division of historic preservation and archeology (DHPA) to take immediate action to protect state owned historic properties affected by disaster and to make recommendations to the historic preservation review board on applications to change state owned historic properties. Requires DHPA to survey and rate state owned historic properties and provide an educational program concerning these properties. Requires each state entity having historic property to have a historic preservation officer. Gives the Historic Landmarks Foundation of this state standing to take court action to enforce the historic preservation law. Requires a person who wishes to obtain a court order to remove a deceased human being from a cemetery to demonstrate that the removal complies with an archeological plan or a development plan approved by the DNR.

Effective: July 1, 2002.

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January 14, 2002, read first time and referred to Committee on Natural Resources.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 526

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 14-21-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. (a) A:

(1) historic ~~site or historic structure~~ **property** owned by the state; or

(2) historic site or historic structure listed on the state or national register; may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the review board has granted a certificate of approval.

(b) **Notwithstanding subsection (a) and if the division finds that an emergency exists in order to protect a historic property owned by the state that has been damaged by fire or a natural disaster in the interim between meetings of the review board, the division may approve routine maintenance, rebuilding, or reconstruction of the historic property without requiring a certificate of approval from the review board.**

(c) An application for a certificate of approval:



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(1) must be filed with the division; and

(2) shall be granted or rejected by the review board after a public hearing.

The division may make a recommendation to the review board concerning any application for a certificate of approval that is filed under this section concerning a historic property owned by the state.

~~(c)~~ (d) Subsections (a) ~~and (b)~~ through (c) do not apply to real property that is owned by a state educational institution (as defined in IC 20-12-0.5-1).

~~(d)~~ (e) The commission for higher education and each state educational institution, in cooperation with the division of historic preservation and archeology, shall develop and continually maintain a survey of historic sites and historic structures owned by the state educational institution. Historic sites and historic structures include buildings, structures, outdoor sculpture, designed landscapes, gardens, archeological sites, cemeteries, campus plans, and historic districts. A survey developed under this subsection must conform with the Indiana Historic Sites and Structures Survey Manual.

~~(e)~~ (f) The state historic preservation officer no later than one (1) year after receipt of a ten (10) year capital plan under IC 14-21-1-18.5 shall:

(1) review a proposed state college or university project that involves a historic site or historic structure owned by a state educational institution; and

(2) submit an advisory report to the commission for higher education, the state educational institution, and the general assembly.

~~(f)~~ (g) Not more than thirty (30) days after a state college or university, under section 18.6 of this chapter, submits to the division a description of a proposed project that involves the substantial alteration, demolition, or removal of a historic site or historic structure, the state historic preservation officer shall:

(1) review the description of the proposed project; and

(2) submit to the state college or university an advisory report concerning the proposed project.

The state college or university shall review and consider the advisory report before proceeding with the substantial alteration, demolition, or removal of a historic site or historic structure.

SECTION 2. IC 14-21-1-18.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 18.7. (a) This section applies to**



1 historic property owned by the state other than property that is
 2 owned by a state educational institution (as defined in
 3 IC 20-12-0.5-1).

4 (b) The division shall periodically conduct a survey using the
 5 most current standard procedures for the survey of historic
 6 property. The survey includes the following:

7 (1) A determination of the:

8 (A) existence;

9 (B) description;

10 (C) location; and

11 (D) managing authority;

12 of each historic property owned by the state.

13 (2) The assignment of a historic rating to each historic
 14 structure owned by the state using the most current standard
 15 procedures for the assignment of these ratings.

16 (c) The chief executive officer of each managing authority
 17 identified under subsection (b) shall designate a historic
 18 preservation liaison officer to do the following:

19 (1) Be responsible for communication among:

20 (A) the managing authority;

21 (B) the division; and

22 (C) other historic preservation organizations or interests.

23 (2) Notify the division when the managing authority receives
 24 approval from the budget committee to make changes to a
 25 state owned historic property.

26 (d) The division shall biannually conduct an education program
 27 for:

28 (1) managing authorities; and

29 (2) historic preservation liaison officers;

30 of historic property owned by the state. The education program
 31 must provide information concerning the managing authority's
 32 and liaison officer's responsibilities under this chapter.

33 SECTION 3. IC 14-21-1-24 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 24. (a) As used in this
 35 section, "agricultural purpose" includes farming, dairying, pasturage,
 36 agriculture, horticulture, floriculture, viticulture, ornamental
 37 horticulture, olericulture, pomiculture, animal husbandry, and poultry
 38 husbandry.

39 (b) Sections 25, 26, 28, and 29 of this chapter do not apply to the
 40 following:

41 (1) Surface coal mining regulated under IC 14-34.

42 (2) Except as provided in IC 23-14-57-1 for the removal of a



human body from a cemetery under a court order, cemeteries and human remains subject to IC 23-14.

(3) Disturbing the earth for an agricultural purpose.

(4) Collecting any object other than human remains that is visible in whole or in part on the surface of the ground, regardless of the time the object was made or shaped.

SECTION 4. IC 14-21-1-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 32. (a) The Historic Landmarks Foundation of Indiana, Inc., or any of its successors, has a private right of action to enforce and prevent violation of this chapter and has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating this chapter.**

(b) The Historic Landmarks Foundation of Indiana, Inc., or any of its successors, does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this section.

(c) The Historic Landmarks Foundation of Indiana, Inc., or any of its successors, when bringing an action under this section does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.

(d) The Historic Landmarks Foundation of Indiana, Inc., or any of its successors, when bringing an action under this section is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this chapter had been or was about to be violated or breached.

(e) If the Historic Landmarks Foundation of Indiana, Inc., or any of its successors, obtains a favorable judgment in an action under this section, the organization may recover reasonable attorney's fees and court costs from the person against whom judgment was rendered.

(f) The remedy provided in this section is in addition to any other legal remedy that may be available.

SECTION 5. IC 23-14-57-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 1. The remains, either cremated or uncremated, of a deceased human shall not be removed from a cemetery without authorization of the disinterment, disentombment, or disinurnment by:**

- (1) a written order of the state department of health;
- (2) the written consent of:

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- 1 (A) the owner of the cemetery; or
- 2 (B) the owner's representative; and
- 3 (3) the written consent of:
- 4 (A) the spouse of the deceased; or
- 5 (B) the parents of the deceased in the case of a deceased minor
- 6 child; or

7 a court order. **However, a court may not issue an order** authorizing
 8 the disinterment, disinterment, or disinterment **of a deceased**
 9 **human being unless the person requesting the court order**
 10 **demonstrates to the court that the removal complies with a plan**
 11 **approved by the department of natural resources under**
 12 **IC 14-21-1-25.**

13 SECTION 6. IC 34-30-2-55.5 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2002]: **Sec. 55.5. IC 14-21-1-32 (Concerning**
 16 **actions brought by The Historic Landmarks Foundation of**
 17 **Indiana, Inc. or its successors).**

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